

TAPED

The License Commission held its regular monthly meeting at 6:00 p.m. on Thursday, November 15, 2012, in the G.A.R. Room at City Hall. Present were Chairman Scott H. McDuffy; Commissioners Paul D. Sullivan, Bruce G. Dansby, Kathy A. Kenney and Alternate Catherine B. Holbrook. Also present were License Agents Lieut. Paul Bonanca and Officer Scott Uhlman; and Administrative Assistant Bonnie Tucker.

1. Approval of the Minutes of the License Commission Meeting of October 18, 2012.

The Adm. Asst. stated the minutes are quite lengthy and had only been completed and sent out the prior day. If the members need more time to read them over before approving, she suggested they be held until the December meeting.

It was agreed to postpone the approval of the minutes until the December meeting.

2. Approval of the following police officers as license agents for the month of December, 2012: Lieuts. Paul Bonanca and Kenneth Legrice; Sgts. George Khoury, Frank Vardaro, James Baroud, Michael Powers and Charles Cassiani; Dets. Thomas Hyland, Nazaire Paul and Matthew Graham; and Officer Scott Uhlman.

A motion was made by Commissioner Sullivan to approve the police officers as listed as license agents for the month of December. The motion was seconded by Commissioner Kenney. All members voting in the affirmative, the motion carried.

3. Requests for Special One-day Permits:

- (a) **Wine and Malt Beverages** – Cardinal Spellman High School – Ellen Morrissey Rota, Manager, for a reception to be held in the School Cafeteria on Wednesday, November 21, 2012, from 4:00 p.m. to 6:00 p.m.

Present was Jane Westerland, 152 Cashman Road, who stated they have planned an alumni reception on November 21st. They expect 75 to 100 people to attend. There will be a police detail.

A motion was made by Commissioner Sullivan to approve the permit. The motion was seconded by Commissioner Dansby. All members voting in the affirmative, the motion carried.

4. Hearing on the request from Dutch Island Dairy, Inc. dba Daddy's Dairy for a Common Victualer license at 1280 Belmont Street.

Present was John Minihan, 40 Bassick Circle, Stoughton.

Chairman McDuffy reviewed that the business is in operation and they are requesting approval for the seating. The plan was reviewed and there will be three tables with a total of nine seats. Mr. Minihan stated they were before the ZBA in October. It is located next to Owen O'Leary's.

A motion was made by Commissioner Dansby to approve the license pending receipt of the department inspection approvals. The motion was seconded by Commissioner Kenney. All members voting in the affirmative, the motion carried.

5. Hearing on the request from Sandra Martin dba Aroma for a Common Victualer license at 132 Main Street.

Present was Sandra Martin, 153 Clifton Avenue, who stated she plans to open a small café with breakfast sandwiches, pastries and coffee. Hours being requested are from 5:00 a.m. to 6:00 p.m., Monday through Saturday. There will be seating for 42. There will also be WiFi. There will be no cooking on the premise. Ms. Martin indicated she is aware that she must have the department inspections completed before opening.

A motion was made by Commissioner Kenney to approve the Common Victualer license pending receipt of the inspection approvals. The motion was seconded by Commissioner Holbrook. All members present voting in the affirmative, the motion carried.

6. Hearing on the request from Dana Waller dba P & P Soulfood for a Common Victualer license at 888 Main Street.

Present was Dana Waller, 59 Ithaca Road, who stated he is requesting a Common Victualer license with four tables and sixteen chairs.

Officer Uhlman came forward and reviewed that the restaurant is located in the old Jackles Bakery across from Vasa Hall. He indicated that Mr. Wahler had stated he is just visiting Brockton and asked him if his permanent address is now Ithaca Road. Mr. Wahler stated he now lives there.

In response to questions from Chairman McDuffy, Mr. Wahler stated he is the owner and manager. He acknowledged that he had televisions down in the cellar which were set up for family and friends to get together, play cards and watch games. Chairman McDuffy asked if he was selling alcohol and he stated he was not. Officer Uhlman recalled that one evening they were performing license checks and observed a large number of vehicles parked outside Vasa Hall. They did not find out about this place until the next day when they went in and found card tables, a bar although there was no alcohol, a cooler with melted ice and beers floating in it and three big screen televisions and café tables.

Officer Uhlman stated that Mr. Wahler has been operating for some time and he wrote him up on a criminal complaint in Brockton District Court for operating a business without a license. It was subsequently continued until after the first of the year by Mr. Creedon at the Court. He stopped by the establishment again on October 9th and found there were tables and chairs and Mr. Wahler was told to remove them. A person identifying himself as Mr. Wahler's attorney contacted Officer Uhlman and he told him to remove the tables and chairs but they did not. He observed people sitting there eating.

Mr. Wahler stated that when he opened, he was not aware of what a Common Victualer license was. He indicated he has been operating for four years. In July he was told he could not have the tables. After being told he did not have a license, he stopped serving food to people at tables. He stated he went to the Zoning Board. When Officer Uhlman told him to either move or remove the tables, he chose to put them in the basement.

Officer Uhlman stated he was there on August 8th and there were multiple violations of the Board of Health and Fire Department. That was the first time he wrote him up. He then went back on October 9th. He stated he has driven by and seen people eating inside. He stated that other than finding the basement area with the bar and operating without a license on August 26th, he has not had any other business dealings. Officer Uhlman stated he has no knowledge that they were selling alcohol in the cellar. Mr. Wahler stated that he was not selling alcohol in the cellar but it was a place where his friends and family could gather to play cards and watch sports games. He stated he was not aware that he was breaking the law when the Fire Marshall came and said this cannot be done. He never had any entertainment. Chairman McDuffy stated he knows there were concerns in the area with the number of cars parked and no one knew where the people from the cars were going. He thought there was also an issue about loud music.

Chairman McDuffy indicated he is willing to give him the opportunity with the license but wants some assurance that he will follow the rules. Mr. Wahler stated he is trying to be in compliance with everything he has been told to do.

Officer Uhlman stated that the Building Department ordered everything to be ripped out of the cellar and it has been. There are still a couple of televisions on the wall.

Commissioner Dansby cautioned Mr. Wahler to keep in mind that ignorance is not an excuse and he should become familiar with the laws that govern his business. He agreed with the Chairman in that they want people to be successful in the City, however, it is his responsibility to make sure he follows the rules. He commented that Officer Uhlman does a great job at policing certain things and he should keep this in mind. Mr. Wahler indicated he understands.

After a brief discussion, a motion was made by Commissioner Dansby to approve the Common Victualer license pending receipt of the department inspection approvals. The motion was seconded by Commissioner Kenney.

Commissioner Kenney indicated she is somewhat concerned with the information regarding the beer and cooler in the cellar. She informed Mr. Wahler that if he is required to have a license if he is going to serve or sell alcohol. There is no B.Y.O.B. and it was reviewed that a licensed Common Victualer cannot allow alcohol to be brought onto the premise.

Lieut. Bonanca advised Mr. Wahler that should the board approve the license, he will be under scrutiny with the inspections and if there are any violations, he will be brought before the Commission.

The Adm. Asst. also indicated that Mr. Wahler must submit a copy of an acceptable form of identification in addition to the department inspection approvals.

A vote was then taken with Commissioners Dansby, Kenney, Holbrook and Chairman McDuffy voting in the affirmative and Commissioner Sullivan opposed. The motion carried and the license was approved.

7. Hearing on the request from Lisa Andrade Rodrigues dba Lisa's Sweet Tooth for a Common Victualer license at 245 Main Street. (This application was inadvertently omitted from original agenda)

Present was Lisa Andrade Rodrigues, 95 Fairview Avenue, who stated she plans to open a bakery at the former Gourmet Café at 245 Main Street. She will be serving prepared sandwiches as well as bakery items and coffee. She also plans to sell wedding cakes and other kinds of cakes and desserts. There will be three tables with two chairs at each together with seating outside for summer. Ms. Tucker informed the applicant that the outside seats and tables have to be okayed by the Building Department before use.

Chairman McDuffy stated that there are four tables on the plan and Ms. Rodrigues indicated she will be using one of the tables to display cakes and it was agreed that the four tables will be left as is. The seating capacity will be for six. Hours being requested are from 9:00 a.m. to 7:00 p.m. Ms. Rodrigues stated she does not plan to open on Sunday at this time but may in the future. It was reviewed that she would be better off asking for seven days at this time and she would not have to be open on Sunday but she could be and if longer hours are needed, she can come back to request it.

A motion was made by Commissioner Kenney to approve the license pending receipt of the department inspection approvals. The motion was seconded by Commissioner Sullivan. All members voting in the affirmative, the motion carried.

8. Hearing on the request from Petti's Market, LLP to transfer the Wine and Malt Package Store license at 216 Belmont Street to C.M. Petti Market, Inc. – Kathleen Petti, Manager.

Present was Kathleen Petti, 152 West Street, who stated there will be no change to the operation of the business.

Paperwork being in order, a motion was made by Commissioner Sullivan to approve the transfer which motion was seconded by Commissioner Kenney. All members voting in the affirmative, the motion carried.

9. Hearing on the request from K & S Sales, Inc. dba Chrysler Dodge Jeep Ram 24 for a Class I Motor Vehicle Dealer license at 1020 Belmont Street.

Representing the applicant was Attorney Kevin Reilly, 18 South Main Street, Randolph. Also present were Hank Toehy and Joanne McCue who are representatives of the company.

Attorney Reilly reviewed the request and stated that the owners of K & S Sales, Inc. own the Chrysler-Jeep dealership in Randolph and for various reasons they are looking to relocate the dealership to the Brockton location. The owners are also the principals of the Nissan dealership

at the same location. Their ultimate goal is to have the two dealerships closer to Belmont Street and to the corner. In addition, the old Santilli Collision Center is under agreement to be purchased and this will be where the repairs will be done for both dealerships.

Attorney Reilly stated that he had spoken with Ms. Tucker with regard to the present Nissan 24 dealership. Two of the parcels included on that license will be taken over by the new dealership so it was agreed that the license should be amended to exclude the two parcels involved.

Chairman McDuffy reviewed that there are two different site maps for the location, one that was submitted to the board and one that was reviewed with Officer Uhlman. Mr. Toehy stated that the plan Officer Uhlman has is correct. The Chairman informed that that the correct plan will have to be filed with the Commission because the one on record is entirely different. The plans were then reviewed and it was agreed that the original plan filed by Attorney Reilly is the correct one and that the one provided to Officer Uhlman should be disregarded. Attorney Reilly identified the area by Assessor's Parcels 009-189 and 192 and these two plots will be designated to Chrysler-Jeep. Parcel 009-188 will belong to Nissan 24. He stated he has submitted a letter with this information. The Adm. Asst. stated that sometime in the future they will have to decide whether the Collision Center should also be included if there are vehicles from either dealership stored or displayed there.

In response to questions from the Commissioners, this will be a new Class I dealership and there is no restriction on the number of Class I licenses in the City. They will be renovating the front office for their Chrysler and Jeep dealership because the franchise requires that they be completely separate. Their Randolph dealership is being moved to the Brockton location.

Officer Uhlman stated he made an inspection and Mr. Toehy showed him around the property.

A motion was made by Commissioner Dansby to approve the license. The motion was seconded by Commissioner Sullivan. All members voting in the affirmative, the motion carried.

10. Hearing on the following requests from Blazin Wings, Inc. dba Buffalo Wild Wings:

- (a) An All Alcoholic Restaurant license at 486 Westgate Drive, #SC101;
- (b) To appoint Scott C. Hardy as the manager; and
- (c) An Entertainment license for Television, Music and Jukebox from 11:00 a.m. to 1:00 a.m.

Present were Attorney Gerald Noonan, 555 Pleasant Street and Scott Hardy who travelled from Illinois and will be the General Manager on-site at the restaurant. Also present was City Councillor Christopher McMillan, Ward 7.

Attorney Noonan reviewed that Blazin Wings, Inc. is a national chain and there are over 500 independent restaurant operations throughout the United States. This is the first corporate owned site that is being established in Massachusetts. It will be located in the former Old Country Buffet area at Westgate Mall. The landlord is New Westgate Mall, LLC. A 25 year, long term lease, has been executed subject to the approval of the liquor license. The company is on the

New York Stock Exchange and is a reputable, high-class operation. Mr. Hardy has worked with the corporation for over 12 years and is a native of Holbrook. He graduated from BC High and UMass Amherst and has been a general manager for the company for twelve years. He has personally trained over 20 managers and is certified by the national safe-serve alcohol program. They will be hiring five full time managers and approximately 100 employees. The square footage is 5,970 square feet. There will be 260 seats at tables, 16 seats at the bar and there will be a outside patio constructed with 42 seats.

Attorney Noonan stated the construction is scheduled to begin on March 25th and completed by July 8, 2013. Mr. Hardy will be working 50+ hours per week and has extensive restaurant experience. The Company has its own in house Responsible Alcohol Serving Program which all employees are required to attend and pass an examination. There are protocols in place for the serving of alcoholic beverages. The only Entertainment will be televisions and a jukebox. They will be spending approximately \$1.5 million to renovate the location.

In response to questions, Attorney Noonan stated they do not plan to open until sometime next summer. They will come back to request the amendment to add the outside patio to the premise because they only just received ZBA approval. There are two other Buffalo Wild Wing Restaurants in the State, however, they are both franchised operations. There are a total of 350 corporate owned restaurants and 150 franchise owned. During Mr. Hardy's twelve years with the Company, he has never had a violation brought against any of his restaurants.

In response to questions from Commissioner Sullivan, Attorney Noonan stated that the Company is willing to have their employees Tips Certified, however, they will be sending them to two different programs, one being a Serve Safe Program which is conducted by the National Restaurant Association. Mr. Hardy is a certified licensed instructor for Serve Safe. In addition, there is a Responsible Alcohol Serving Program which is comprehensive and all employees must go through the course and pass an exam.

Councillor McMillan was present and indicated this establishment will be a great addition to the Westgate Mall. He asked to be recorded in favor.

Lieut. Bonanca asked if there is any plan for a dance floor and Mr. Hardy indicated there will not be. He stated it is going to be more of a sports bar and restaurant. Hours will be Monday through Saturday from 11:00 a.m. to 1:00 a.m. and on Sunday from 11:00 a.m. to 12:00 midnight.

The Adm. Asst. reviewed the regular starting hour to serve alcohol on Sundays is noon, however, it is allowed if the Commission is made aware and usually the earlier time is allowed only in conjunction with food being served. Mr. Hardy stated noon is fine and he was informed that he could ask for the earlier time at a later date.

Mr. Hardy stated that the main road is around the side of the building. Officer Uhlman stated his concern is with people driving across the parking lot but there will be a wall built up around the patio.

A motion was made by Commissioner Sullivan to approve the requests. The motion was seconded by Commissioner Holbrook. All members voting in the affirmative, the motion carried.

Commissioner Kenney asked about the video games shown on the floor plan submitted and Ms. Tucker stated they will be applying for some coin-operated games sometime in the future. Attorney Noonan stated that the Company who submitted the applications is Licensing Solutions and he was retained locally. They will be coming back in the future to address the other issues.

11. Communications

There were no communications to review.

12. Any other business to properly come before the Commission.

- (a) Frank's of Brockton, Inc. – 265 North Pearl Street - Request to change officers/directors - Sign Form 43 for ABCC approval

The Administrative Asst. reviewed that the clerk of the corporation, Attorney William Wainwright, passed away during the year and the request is to change and update the officers. Paperwork is in order and a Form 43 needs to be signed by the board and will be sent to the ABCC for approval.

A motion was made by Commissioner Sullivan to approve the request which motion was seconded by Commissioner Kenney. All members voting in the affirmative, the motion carried.

With no further business to come before the Commission, a motion was made by Commissioner Sullivan to adjourn the meeting. The motion was seconded by Commissioner Holbrook. All members voting in the affirmative, the motion carried.

The Commission's next meeting is scheduled for December 13, 2013.

Respectfully submitted,

Scott H. McDuffy
Chairman

APPROVED:

Paul D. Sullivan, Commissioner

Bruce G. Dansby, Commissioner

Joshua J. Wood, Commissioner

Kathy Kenney, Commissioner

Fred Fontaine
Alternate Commissioner

Catherine B. Holbrook
Alternate Commissioner